

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Rio Brazos

Subfile No. CHRB-003-0027

**MOTION TO AMEND CONSENT ORDER**  
**DESCRIBING THE WATER RIGHTS OF LA ASOCIACION DE AGUA**  
**DE LOS BRAZOS IN SUBFILE CHRB-003-0027**

The plaintiff State of New Mexico, *ex rel.* State Engineer (State) moves the Court to amend the Consent Order entered on September 4, 2002 (Doc. No. 6850) in Subfile CHRB-003-0027 describing the water rights of defendant La Asociacion de Agua de los Brazos as grounds therefore plaintiff states:

1. The Consent Order entered on September 4, 2002 in Subfile CHRB-003-0027 that describes the water rights of La Asociacion de Agua de los Brazos (“the Association”) does not include a description of the amount of water or the priority of the Association’s water rights. These elements of the Association’s water rights were reserved for future determination. *See* Consent Order at 2. The State has reviewed the information in the water rights files of the Office of the State Engineer with the staff of the Water Rights Division, and the State believes the Association presently has the right to divert and use 3.97 acre-feet of groundwater per annum with a priority of 1861.

2. Counsel for the State has written to the Board of Directors of the Association to to learn

if the Association agrees with the State's assessment of the Association's water rights, but to date the State has not received a response that would indicate if the Association agrees or disagrees with the State's assessment.

3. The Consent Order entered on September 4, 2002 that describes the water rights of the Association also contains an error in the description of the source of water and possible points of diversion for the Association's water rights. The Consent Order describes both an infiltration gallery that would divert the surface water of the Rio Brazos and a well (RG-37112) that diverts shallow groundwater. The well described in the Consent Order has been abandoned and is not a point of diversion that is authorized for use. All water rights associated with the well were transferred to the Association's infiltration gallery by permit approved by the State Engineer on April 26, 1983. The Consent Order entered on September 4, 2002 should be revised to delete any reference to groundwater water as a source of water and to delete the information on well RG-37112 as a point of diversion.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the description of the elements of the Association's water rights in the Consent Order entered on September 4, 2002 in Subfile CHRB-003-0027 as follows:

**A. DOMESTIC & SANITATION (Surface Water Only):**

**Office of the State Engineer File No.:** 3862

**Amount of Water and Priority:**

Amount of Water	3.97 acre-feet per annum
Priority	1861

**Source of Water:** Surface water of the Rio Brazos, a tributary of the Rio Chama

**Purpose of Use:** INDOOR DOMESTIC USE

**Point of Diversion:**

**Infiltration Gallery:** 3862

**Location X:** 1,550,323      **Y:** 2,092,220 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Place of Use:**

Members of La Asociacion de Agua de los Brazos. As shown on the 2001 Hydrographic Survey Map CHRB-3.

Respectfully submitted,

/s/ Ed Newville

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 9<sup>th</sup> day of July 2012, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following parties via first class mail addressed as stated.

/s/ Ed Newville

EDWARD G. NEWVILLE

La Asociacion de Agua de los Brazos  
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